

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	Jos Jaspers et al.	Examiner:	Haoshian Shin
Serial No.:	10/749,421	Group Art Unit:	2173
Filed:	December 31, 2003	Docket No.:	200901437-1
Title:	CONTENT MANAGEMENT IN WEB ENVIRONMENTS		

APPEAL BRIEF UNDER 37 C.F.R. §41.37

Mail Stop Appeal Brief – Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed on July 19, 2010, appealing the final rejection of claims 1, 3, 4, 8, 10-17, 20, and 22-27 of the above-identified application as set forth in the Final Office Action mailed April 19, 2010.

The U.S. Patent and Trademark Office is hereby authorized to charge Deposit Account No. 08-2025 in the amount of \$540.00 for filing a Brief in Support of an Appeal as set forth under 37 C.F.R. §41.20(b)(2). At any time during the pendency of this application, please charge any required fees or credit any overpayment to Deposit Account No. 08-2025.

Appellant respectfully requests consideration and reversal of the Examiner's rejection of pending claims 1, 3, 4, 8, 10-17, 20, and 22-27.

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REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP having a principal place of business at 11445 Compaq Center Drive West, Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in the present Appeal.

STATUS OF CLAIMS

The Application was filed with claims 1-25. During the course of prosecution, claims 26-27 were added and claims 2, 5-7, 9, 18-19, 21 were canceled. In a Final Office Action mailed April 19, 2010, all of the pending claims, i.e., claims 1, 3, 4, 8, 10-17, 20, and 22-27, were finally rejected. Claims 1, 3, 4, 8, 10-17, 20, and 22-27 are the subject of the present Appeal.

STATUS OF AMENDMENTS

No amendments have been entered subsequent to the Final Office Action mailed on April 19, 2010. Appellants submitted an Amendment After Final on June 21, 2010, but this amendment was not entered according to the Advisory Action mailed July 16, 2010.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The Summary is set forth as exemplary embodiments corresponding to the language of independent claims 1 and 14. Discussions about elements of claims 1 and 14 can be found at least at the cited locations in the specification and drawings.

I. Independent Claim 1

One embodiment of the present invention, as claimed in independent claim 1, is a method comprising:

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presenting a list of different selectable components used to generate Web pages and associated configurable parameters for each of the components (page 3, lines 21-22; page 8, lines 13-15);

receiving a selection of a plurality of the different selectable components and values for associated configurable parameters for each of the plurality of the different selectable components (page 13, lines 15-16);

automatically generating a Web page in a Web environment based, at least in part, on the received selection of the plurality of the different selectable components and the received parameter values, wherein the Web page presents the plurality of the different selectable components in accordance with the received parameter values (page 13, line 28, to page 14, line 7);

receiving a request to publish content in the Web page (page 13, lines 23-24);

presenting, in response to the request to publish content, a content definition user interface adapted to receive an identification of content (page 13, lines 24-25);

publishing the identified content in accordance with a predefined presentation format (page 13, lines 26-27);

receiving data corresponding to a request to navigate through links in the Web page (page 5, lines 12-14) to a particular location within the Web page wherein the received data corresponding to the request to navigate does not include data identifying a navigational structure of the Web environment (page 5, lines 19-21), wherein the request to publish content is received in connection with a display of the particular location on a user interface and the identified content is published at the particular location (page 5, lines 14-15); and

allowing access to the Web page to a site administrator and allowing defined permissions to a content publisher to access (page 10, lines 8-9) selected particular location within the Web page (page 10, lines 1-2) while the Web page is published to permit updating of the contents by the content publisher (page 10, lines 17-19).

II. Independent Claim 14

One embodiment of the present invention, as claimed in independent claim 14 is a computer program product (page 5, lines 25-27), tangibly stored on one or more computer-readable media, for generating a portion of a web environment. The product comprising:

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instructions operable to cause a programmable processor to present a list of different selectable components used to generate Web pages and associated configurable parameters for each of the components (page 3, lines 21-22; page 8, lines 13-15);

receive a selection of a plurality of the different selectable components and values for associated configurable parameters for each of the plurality of the different selectable components (page 13, lines 15-16);

automatically generate a Web page based, at least in part, on the received selection of the plurality of the different selectable components and the received parameter values, wherein the Web page presents the plurality of the different selectable components in accordance with the received parameter values (page 13, line 28, to page 14, line 7);

receive a request to publish content in the Web page (page 13, lines 23-24);

present, in response to the request to publish content, a content definition user interface adapted to receive an identification of content (page 13, lines 24-5);

publish the identified content in accordance with a predefined presentation format (page 13, lines 26-27);

receive data corresponding to a request to navigate through links in the Web page (page 5, lines 12-14) to a particular location within the Web page wherein the received data corresponding to the request to navigate does not include data identifying a navigational structure of the Web environment (page 4, lines 19-21), wherein the request to publish content is received in connection with a display of the particular location on a user interface and the identified content is published at the particular location (page 5, lines 14-15); and

allow access to the Web page to a site administrator, and allow defined permissions to a content publisher to access (page 10, lines 8-9) selected particular location within the Web page (page 10, lines 1-2) while the Web page is published to permit an updating to the contents by the content publisher (page 10, lines 17-19).

GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

- I. Claims 1, 3-4, 8, 10-17, 20, and 22-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Underwood et al. U.S. Patent No. 7,152,207 (The Underwood Patent) in view of the Giljum et al. U.S. Patent No. 6,745,238 (The Giljum Patent).

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- II. Claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Underwood Patent in view of the Giljum Patent and in further view of the Maeno et al. U.S. Patent No. 7,299,414 (the Maeno Patent).

ARGUMENT

I. The Applicable Law

To anticipate a claim under 35 U.S.C. 102, a reference must teach every limitation of the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 [2 USPQ2d 1051, 1053] (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference"). *See also Atlas Power Co. v. IRECO Inc.*, 190 F.3d 1342, 1347 [51 USPQ2d 1943, 1946] (Fed. Cir. 1999).

With regard to a 35 U.S.C. § 103 obviousness rejection: "Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case." M.P.E.P. 2141 (emphasis in the original). The Examiner bears the burden under 35 U.S.C. § 103 in establishing a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074 [5 USPQ2d 1596, 1598] (Fed. Cir. 1988).

One criteria that must be satisfied to establish a *prima facie* case of obviousness is the reference or combined references must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981 [180 USPQ 580] (C.C.P.A. 1974).

However, "[a] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1731 [82 USPQ2d 1385, 1389] (2007). In making an obviousness determination over a combination of prior art references, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *Id.* at 1738 [1396].

In order to facilitate review of the determination of whether there was an apparent reason to combine known elements in the fashion claimed by the patent at issue, the "analysis should be made explicit." *Id.* at 1738 [1396]. "[R]ejections on obviousness grounds cannot

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be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 [78 USPQ2d 1329] (Fed. Cir. 2006) (cited with approval in *KSR*, 127 S. Ct. at 1738 [82 USPQ2d at 1396])

The test for obviousness under § 103 must take into consideration the invention as a whole; that is, one must consider the particular problem solved by the combination of elements that define the invention. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143 [227 USPQ 543, 551] (Fed. Cir. 1985). Furthermore, claims must be interpreted in light of the specification, claim language, other claims, and prosecution history. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568 [1 USPQ2d 1593, 1597] (Fed. Cir. 1987), *cert. denied*, 481 U.S. 1052 (1987). At the same time, a prior patent cited as a § 103 reference must be considered in its entirety, “*i.e.* as a *whole*, including portions that lead away from the invention.” *Id.* That is, the Examiner must recognize and consider not only the similarities, but also the critical differences between the claimed invention and the prior art as one of the factual inquiries pertinent to any obviousness inquiry under 35 U.S.C. § 103. *In re Bond*, 910 F.2d 831, 834 [15 USPQ2d 1566, 1568] (Fed. Cir. 1990) (emphasis added).

Furthermore, the Examiner must avoid hindsight. *Id.* “A fact finder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning.” *KSR*, 127 S. Ct. at 1739 [82 USPQ2d at 1397] (citing to *Graham v. John Deere*, 383 U.S. 1 [148 USPQ 459] (1966) in warning against a temptation to read into the prior art the teachings of the invention at issue and instructing courts to guard against slipping into the use of hindsight).

“[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.” *KSR*, 127 S. Ct. at 1737 [82 USPQ2d at 1395] (citing to *United States v. Adams*, 383 U.S. 39, 51-52 [148 USPQ 479] (1966)).

In conclusion, an Appellant is entitled to a patent grant if a *prima facie* case of obviousness is not established. The Federal Circuit has endorsed this view in stating: “If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the Appellant is entitled to grant of the patent.” *In re Oetiker*, 977 F.2d 1443, 1446 [24 USPQ2d 1443, 1448] (Fed. Cir. 1992).

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II. Rejection of claims 1, 3-4, 8, 10-17, 20, and 22-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Underwood et al. U.S. Patent No. 7,152,207 (The Underwood Patent) in view of the Giljum et al. U.S. Patent No. 6,745,238 (The Giljum Patent)

Claims 1, 3-4, 8, 10-17, 20, and 22-26 under 35 U.S.C. § 103(a) as being unpatentable over the Underwood et al. U.S. Patent No. 7,152,207 (The Underwood Patent) in view of the Giljum et al. U.S. Patent No. 6,745,238 (The Giljum Patent). This rejection includes independent claims 1 and 14. Claims 3-4, 8, 10-13, and 26-27 depend directly or indirectly from claim 1. Claims 15-17, 20, and 22-25 depend directly or indirectly from claim 14. Appellants submit that the combination of references do not teach or suggest all of the claim limitations, the references are improperly combined, or both.

A. The Claims are Patentably Distinguishable from Combination of the Underwood Patent and the Giljum Patent

Claims 1 and 14 include the features of receiving

data corresponding to a request to navigate through links in the Web page to a particular location within the Web page wherein the received data corresponding to the request to navigate does not include data identifying a navigational structure of the Web environment, wherein the request to publish content is received in connection with a display of the particular location on a user interface and the identified content is published at the particular location.

Appellants respectfully submit that these features are not show or make obvious in either the Underwood Patents or the Giljum Patents.

The Final Office Action, on pages 3-4, cites the Underwood Patent for the teaching of this feature. More particularly, Final Office Action cites the teaching at Figures 23, 24, column 16, lines 43-46, and column 17, lines 43-50, of the Underwood Patent. The Underwood Patent, beginning at column 16, line 36, describes a method of changing content on a web page. A site template of the web page “icons are positioned at various locations throughout the page for activating pop up menus for a adding and changing the content of the selected page” (Underwood, column 16, lines 43-46).

Appellants submit that the cited portions in the Underwood Patent, and any other portions, do not teach or suggest both “the request to publish content is received in

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connection with a display of the particular location on a user interface and the identified content is published at the particular location” and “a request to navigate through links in the Web page to a particular location within the Web page wherein the received data corresponding to the request to navigate does not include data identifying a navigational structure of the Web environment.” For example, the user of the tool of the Underwood Patent does not “navigate through links in the Web page” as set forth in the independent claims; the user navigates through a site template used to create a web page. Additionally, the icons positioned in various location throughout the web page of the Underwood Patent cannot, under a reasonable interpretation of the claims correspond to both the claimed “particular location on a user interface” and “links in the Web page to a particular location within the Web page.”

The Underwood Patent does not teach or make obvious both of the features of “particular location on a user interface” and “links in the Web page to a particular location within the Web page” as set forth in the independent claims. At least one of these features is missing from the Underwood. The secondary reference of the Giljum Patent also does not include the missing features of the claims. Because the at least one of the claimed features are not shown or made obvious in the prior art of record, at least one of the claimed features must be missing from any proposed combination of the Underwood and the Giljum Patents. Accordingly, Appellants submit the independent claims 1 and 14 are patentably distinguishable from the prior art of record.

Dependent claims 3-4, 8, 10—13, 15, 17, 20, and 22-26 serve to further define the independent claims and include all of the features of their corresponding independent claim 1 or 14. By virtue of their dependency from a patentable independent claim, the rejected dependent claims 3-4, 8, 10-13, 15-17, 20, and 22-26 are also patentably distinguishable from the prior art of record. Accordingly, Appellants submit that rejected claims 1, 3-4, 8, 10-17, 20, and 22-26 are patentably distinguishable from any combination of the Underwood and Giljum Patents.

B. The Underwood Patent and the Giljum Patent are Improperly Combined

Appellants respectfully submits that one of ordinary skill in the art, would not have been combined the teaching of the Underwood Patent and the Giljum Patents in the manner

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suggested in the Final Office Action. The Final Office Action states at page 4 that the motivation would be “to generate a web site creation and maintenance tool that apportions responsibility of web site creation and maintenance task to the most appropriate individuals.” Appellants submit that this is merely including features of one website tool into another website tool without considering the actual nature of the references and their teachings.

The website tool of the Underwood Patent is intended for a user, such as a small business owner or employee, who wishes to create a sophisticated website but without having technical knowledge or a technically complex tool and without resorting to an expensive team of expert consultants. The specifics of the website are input into the website tool, and the user provides answers to a form describing the desired features of the website. The user does not provide the website tool with documents to publish. Instead, the website tool already includes “pre-created industry content (“dynamic content”) . . . provided to a user in over 200 industry groups. This content is customized for each user based upon answers to various questions that may be provided to the user.” (Underwood, column 7, lines 49-52). The website tool retains control of the presentation and content so the website maintains a uniform and sophisticated look and navigational structure even if the user decides to update the information on the website. Accordingly, the website tool is centralized, comprehensive and includes even website content directed, and is directed to the unsophisticated user with very little training and available computing resources.

In contrast, the website tool of the Giljum Patent, is directed to a very sophisticated team of developers and provides a decentralized system of allowing multiple publishers to post their own content. For example, the Giljum Patent describes a system where the website developer is familiar with databases and can allocate space on a computer for a database. (Giljum Patent, column 6, lines 45-52).

One of ordinary skill in the art at the time the invention was made would not be inclined to combine the teaching of the Underwood and Giljum Patents to obtain the features of the present claims. One skilled in the art would not be inclined to modify the centralized functionality of website tool taught in the Underwood Patent. The Underwood Patent maintains strict control of content to ensure a uniform and sophisticated look and feel to the website, and the proposed modification would allow multiple publishers to make distributed decisions as to the content in the pages.

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At the time the invention was made there was a wide dichotomy between tools for the skills of general computer and tools for the skills of sophisticated computer users. Supplying authors and a website administrator with desktops and rudimentary networking capabilities with the content publishing feature of the Giljum Patent would result in a heavy program that would require high maintenance and networking ability that many business users without computer-savvy would find too expensive. Similarly, supplying authors and a website administrator having sophisticated systems with the centralized control feature of the Underwood Patent would significantly diminish their freedom to decide much of the content of their website.

One skilled in the art at the time of the present invention would not have combined the teachings of the Underwood and Giljum Patents to solve the problem facing Appellants. The references in this rejection are improperly combined. Appellants thus submit that the rejected claims 1, 3-4, 8, 10-17, 20, and 22-26 are patentably distinguishable from the prior art of record.

Therefore, Appellants respectfully request that the rejection to these claims be reversed and that these claims be allowed.

III. Rejection of claim 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Underwood Patent in view of the Giljum Patent and in further view of the Maeno et al. U.S. Patent No. 7,299,414 (the Maeno Patent)

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Underwood Patent in view of the Giljum Patent and in further view of the Maeno et al. U.S. Patent No. 7,299,414 (the Maeno Patent). Claim 27 indirectly depends from independent claim 1, which has been shown to be patentable over the combination of the Underwood and Giljum Patents. Appellants submit that the Maeno Patent does not teach or make obvious the features of claim 1 missing in the combination of the Underwood and Giljum Patents. Because the claim features are missing from each of the Underwood, Giljum, and Maeno Patents separately, the claimed features cannot be found in any proposed combination of the three references. Accordingly, Appellants respectfully submit that claim 27 is patentably distinguishable from the cited art. Therefore, Appellants respectfully request that the rejection to claim 27 be reversed and that claim 27 be allowed.

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CONCLUSION

For the above reasons, Appellant respectfully submits that the cited references neither anticipate nor render obvious claims of the pending Application. The pending claims distinguish over the cited references, and therefore, Appellant respectfully submits that the rejections must be withdrawn, and respectfully requests the Examiner be reversed and claims 1, 3, 4, 8, 10-17, 20, and 22-27 be allowed.

Any inquiry regarding this Response should be directed to Patrick G. Billig at Telephone No. (612) 573-2003, Facsimile No. (612) 573-2005.

Respectfully submitted,

Jos Jaspers et al.,

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CLAIMS APPENDIX

1. A method comprising:

presenting a list of different selectable components used to generate Web pages and associated configurable parameters for each of the components;

receiving a selection of a plurality of the different selectable components and values for associated configurable parameters for each of the plurality of the different selectable components;

automatically generating a Web page in a Web environment based, at least in part, on the received selection of the plurality of the different selectable components and the received parameter values, wherein the Web page presents the plurality of the different selectable components in accordance with the received parameter values;

receiving a request to publish content in the Web page;

presenting, in response to the request to publish content, a content definition user interface adapted to receive an identification of content;

publishing the identified content in accordance with a predefined presentation format;

receiving data corresponding to a request to navigate through links in the Web page to a particular location within the Web page wherein the received data corresponding to the request to navigate does not include data identifying a navigational structure of the Web environment, wherein the request to publish content is received in connection with a display of the particular location on a user interface and the identified content is published at the particular location; and

allowing access to the Web page to a site administrator and allowing defined permissions to a content publisher to access selected particular location within the Web page while the Web page is published to permit updating of the contents by the content publisher.

2. (Canceled)

3. The method of claim 1 wherein the presented list comprises a form adapted to allow a user to configure parameters, wherein the form comprises a plurality of entry fields, with each entry field corresponding to one of the different selectable components.

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4. The method of claim 1 wherein the generated Web page is based on a template defining a presentation format for the generated Web page.

5. – 7. (Canceled)

8. The method of claim 1 wherein the particular location comprises a folder within a displayed folder hierarchy with the folder hierarchy corresponding to a logical structure of the Web page.

9. (Canceled)

10. The method of claim 1 wherein the different selectable components comprise web page components, with each web page component defining a presentation format for data on a web page.

11. The method of claim 10 further comprising:
receiving a request to publish content in at least one of the web page components;
presenting, in response to the request to publish content, a content definition user interface adapted to receive an identification of content; and
publishing the identified content in accordance with a predefined presentation format.

12. The method of claim 11 wherein the content includes at least one link to a web page.

13. The method of claim 12 further comprising:
receiving a request to modify a logical structure of the Web page;
modifying the logical structure of the Web page in accordance with the request to modify the logical structure; and
updating the at least one link in accordance with the modified logical structure.

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14. A computer program product, tangibly stored on one or more computer-readable media, for generating a portion of a web environment, comprising instructions operable to cause a programmable processor to:

present a list of different selectable components used to generate Web pages and associated configurable parameters for each of the components;

receive a selection of a plurality of the different selectable components and values for associated configurable parameters for each of the plurality of the different selectable components;

automatically generate a Web page based, at least in part, on the received selection of the plurality of the different selectable components and the received parameter values, wherein the Web page presents the plurality of the different selectable components in accordance with the received parameter values;

receive a request to publish content in the Web page;

present, in response to the request to publish content, a content definition user interface adapted to receive an identification of content;

publish the identified content in accordance with a predefined presentation format;

receive data corresponding to a request to navigate through links in the Web page to a particular location within the Web page wherein the received data corresponding to the request to navigate does not include data identifying a navigational structure of the Web environment, wherein the request to publish content is received in connection with a display of the particular location on a user interface and the identified content is published at the particular location; and

allow access to the Web page to a site administrator, and allow defined permissions to a content publisher to access selected particular location within the Web page while the Web page is published to permit an updating to the contents by the content publisher.

15. The computer program product of claim 14 wherein the presented list comprises a form adapted to allow a user to configure the parameters.

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16. The computer program product of claim 15 wherein the form comprises a plurality of entry fields, with each entry field corresponding to one of the different selectable components.

17. The computer program product of claim 14 wherein the generated Web page is based on a template defining a presentation format for the generated Web page.

18. – 19. (Canceled)

20. The computer program product of claim 19 wherein the particular location comprises a folder within a displayed folder hierarchy, with the folder hierarchy corresponding to a logical structure of the Web page.

21. (Canceled)

22. The computer program product of claim 14 wherein the different selectable components comprise web page components, with each web page component defining a presentation format for data on a web page.

23. The computer program product of claim 22 further comprising instructions operable to cause a programmable processor to:

receive a request to publish content in at least one of the web page components;
present, in response to the request to publish content, a content definition user interface adapted to receive an identification of content; and
publish the identified content in accordance with a predefined presentation format.

24. The computer program product of claim 23 wherein the content includes at least one link to a web page.

25. The computer program product of claim 24 further comprising instructions operable to cause a programmable processor to:

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receive a request to modify a logical structure of the Web page;
modify the logical structure of the Web page in accordance with the request to modify the logical structure; and
update the at least one link in accordance with the modified logical structure.

26. The method of claim 4 wherein the templates include templates for at least one of different countries, different organizational sites, intranet sites, extranet sites, or Internet sites.

27. The method of claim 4 wherein a library of components include predefined components defined in different languages to allow a user to selectively switch among the different languages for presentation in the generated Web page.

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Serial No.: 10/749,421

Filed: December 31, 2003

Docket No.: 200901437-1

Title: CONTENT MANAGEMENT IN WEB ENVIRONMENTS

EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.